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Competition: Commission to market test new proposals from Microsoft on interoperability

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Competition: Commission to market test new proposals from Microsoft on interoperability

The European Commission is to market test new proposals it has received from Microsoft outlining how the company intends to implement the Commission's March 2004 Decision in the field of interoperability (see IP/04/382). The Decision required Microsoft to disclose complete and accurate interface documentation which would allow non-Microsoft work group servers to achieve full interoperability with Windows PCs and servers. The Commission is putting Microsoft's proposals to industry in order to assess them in full. Subject to the results of this market test, work group server developers interested in receiving interoperability information from Microsoft will be able to develop and sell their products on a global basis. Microsoft has also recognised the need to enhance the options available to recipients by creating a range of packages of information from which they can choose according to their needs. Furthermore, there will be a category of interoperability information that will be disclosed royalty-free. The Commission remains committed to ensuring that in due course it will become possible to use certain interoperability information from Microsoft in software products distributed under an open source licence.

"I am happy that Microsoft has recognised certain principles which must underlie its implementation of the Commission's Decision" said European Competition Commissioner Neelie Kroes. "I remain determined to ensure that all elements of the Decision are properly implemented. This includes the ability for developers of open source software to take advantage of the remedy" she added.

The Commission's Decision of March 2004 requires Microsoft to disclose interoperability information to developers of work group server operating systems. Following rejection of Microsoft's application for suspension of this requirement by the Court of First Instance in December 2004 (see MEMO/04/305), the Commission was concerned that the conditions imposed by Microsoft for access to, and use of that information were not reasonable and non-discriminatory.

Microsoft has now agreed to make a number of changes to these conditions. Microsoft has agreed that it will allow development and sale of interoperable

products on a worldwide basis. Microsoft has also recognised that a category of the information which it is obliged to disclose will be royalty-free.

Microsoft considers that the software source code developed by recipients of the interoperability information that implements the Microsoft protocols should not be published under a so-called "open source licence". The Commission nevertheless considers that, if the Court of First Instance rules in favour of the Commission in the pending application for annulment filed by Microsoft (case T-201/04), this should be possible for the protocols that do not embody innovations.

The Commission is committed to ensuring that this will be the case immediately after any such favourable ruling by the Court.

Microsoft's proposals will now be market tested in order to enable the Commission to make a final assessment. In this context, the Trustee foreseen by the Decision will, as part of its mandate in assisting the Commission in monitoring Microsoft's compliance, provide technical advice to the Commission. This will include evaluating the innovative character of the protocols at stake, and identifying appropriate comparables to verify whether the remuneration that Microsoft proposes to charge is reasonable.